

the same NK-1 antagonists with an anxiolytic/antidepressant.

Applicant respectfully traverses this rejection. Applicant maintains that it would not be obvious to replace the NK-3 antagonist disclosed in the '079 patent application with a known anxiolytic or antidepressant as described in the subject application. There is nothing in the '079 application that would suggest combining a CNS-penetrant NK-1 antagonist with a known anxiolytic or antidepressant. There is also nothing in the '357 patent application that would suggest combining a CNS-penetrant NK-1 antagonist with a known anxiolytic or antidepressant. The '357 patent application is directed to a combination of an NK-1 receptor antagonist and a 5HT1D receptor antagonist. The Examiner has not provided any teaching that suggests that a 5HT1D receptor antagonist is interchangeable with a known anxiolytic or antidepressant. Moreover, the Examiner required applicant elect a single disclosed anxiolytic/antidepressant for examination purposes. In response, applicant elected the known antidepressant drug sertraline. There is more particularly no teaching cited by the Examiner that suggests that an NK-3 antagonist or a 5HT1D antagonist is interchangeable with sertraline or any other SSRI.

The Examiner also again rejected claims 1-16 under 35 USC 103(a) as allegedly obvious over Lowe, III, et al. (US Patent 5,773,450) in view of The Merck Index. The Examiner stated that Lowe, III, et al. discloses pharmaceutical compositions of applicant's elected NK-1 receptor antagonist useful in treating anxiety and depression. The Examiner stated that applicant's claimed invention differs from Lowe, III, et al. in that applicant's claimed invention further comprises use of an anxiolytic or antidepressant. The Examiner attempted to bridge this deficiency using The Merck Index, teaching applicant's elected antidepressant, sertraline, to be an antidepressant. The Examiner stated that it would have been obvious to combine the elected NK-1 receptor antagonist and sertraline in one composition since each is supposedly known to exhibit the same therapeutic effect.

Applicant respectfully traverses this rejection under 103(a). Neither reference cited by the Examiner suggests combining a CNS-penetrant NK-1 receptor antagonist, let alone the elected NK-1 receptor antagonist, with a known anxiolytic or antidepressant, let alone the elected drug sertraline. Just because two substances have been disclosed as being useful for treating the same indication should not render obvious the combination of the two substances for treating that indication. The Examiner should consider whether any real motivating factors are present for combining the two substances. Otherwise, the two substances could just as equally be considered to contraindicate one another. "Obvious to

try" is not sufficient to render a claimed invention unpatentable.

In view of the above remarks, applicant respectfully requests that the Examiner withdraw the rejection of claims 1-16. The earliest possible notification of allowable subject matter is also respectfully requested.

If a telephone interview would be of assistance in advancing the prosecution of the subject application, applicant's undersigned attorney kindly invites the Examiner to telephone her at the number provided below.

No fee, other than the fee for the three month extension of time, authorized in the Petition filed herewith, is believed necessary for filing this Communication. However, if any other fee is found necessary for filing this Communication, authorization to charge such fee to Deposit Account No. 16-1445 is hereby given.

Respectfully submitted,

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